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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5942 OF 2005

Bank Karmachari Sangh ... Petitioner
V/s.
Pune Zilla Madhyawarti
Sahakari Bank Ltd. & Ors. ... Respondents

Mr.A.D. Patwardhan for Petitioner
Mr.V.B. Tapkir for Respondent No.1
Mr.Huddar for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 13, 2005**

P.C.:

. The Petition challenges the order passed in the Miscellaneous Application IC No.1 of 2005 in Revision Application IC No.1 of 2003. The facts giving rise to the present petition are as follows:

2. The Petitioner claims to be the representative and approved union for the Cooperative Banking Industry in the Pune region excluding the Pune city area. A dispute regarding the wage revision was pending before the wage board. It appears that in 2002, an application was made by the Petitioner-Union to be joined as a party to the proceedings before the wage board. The application was rejected. The Petitioner, therefore, on 1.2.2003 filed revision application IC No.1 of 2003 under the BIR Act. The revision was filed through its Assistant Secretary Desai.

3. It appears that the Respondent No.1-bank and Respondent No.2-Union which is the representative and approved union for the local area of Pune city signed a settlement regarding the wage revision.

4. It appears that some time in 2004, the then Assistant Secretary of the Petitioner union sought to withdraw the revision application. The then General Secretary of the Petitioner-Union one Abhyankar opposed the withdrawal of the revision application and sought to be impleaded as a party. It appears that the application made by the then General Secretary was rejected and, the application for withdrawal of the revision was allowed. The Petitioner filed a writ petition No.9359 of 2004 against the order of the Industrial Court. Although the petition was rejected, this Court passed following order:

> 4. However, the Union is not remedyless and if it files an application for restoration on the ground that the withdrawal application filed by Mr.Desai was submitted unauthorizedly or contrary to the decisions/Rules of the Union, the same will have to be decided by the Industrial Court as per law.

5. Accordingly, the Petitioner filed an application

for restoration of the revision application which was withdrawn by Desai, contending that he was not duly authorised to withdraw the same. The restoration application has been rejected by the Industrial Court. The Industrial Court held that Abhyankar who filed the application for restoration was not duly authorised. It was also further held that the Petitioner was not able to prove that Desai unauthorisedly submitted an application for withdrawal.

6. The dispute which arises is whether Desai had any authority to withdraw the restoration application. The restoration application was dismissed also on the ground that neither Desai nor Bhide who claimed to be the General Secretary of the Petitioner Union, was made a party to the restoration application. It appears that there were some internal disputes within the office bearers of the Petitioner-Union. Accordingly, by an order of this Court in Writ Petition No.3921 of 2005, an Administrator has been appointed to run the affairs of the Union. The Administrator has taken charge on 12.9.2005. It appears that the Administrator is now running the affairs of the Union.

7. In my opinion, the order of the Industrial Court holding that Abhyankar was not authorised to file the

restoration application is clearly erroneous. The Industrial Court was not called upon to decide the authority of Abhyankar but was required to ascertain whether the application tendered by Desai, withdrawing the revision was maintainable. The Industrial Court has instead of confining itself to that issue has decided that Abhyankar had no locus to file the restoration application and that he ought to have made Bhide who was the contesting candidate for the post of General Secretary a party to this application for restoration. The dispute regarding the office bearers of the Petitioner is already before the Industrial Court. Therefore, the Industrial Court in the present dispute ought not to have made any comments on this issue. Instead, it ought to have confined its observations and conclusions as to whether Desai had authorisedly submitted the application for withdrawal of the revision. The Industrial Court has not done so and therefore, it would be necessary to remand the matter for a fresh hearing. However, as the Administrator has now been appointed, it would be appropriate for the Administrator, if so advised, to be impleaded as an applicant in the restoration application and the application would be considered to have been filed through him. The Industrial Court will consider this application and decide the same on merits uninfluenced

by the observations passed by it in the earlier order dated 5.3.2005.

8. Writ Petition is disposed off accordingly.